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May 9, 2003

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FAX

RECIPIENT/ PHONE NO.	FAX NO.	COMPANY/ CITY, STATE, COUNTRY
TC 1700 Ex. Steven L. Weinstein (Art Unit 1761)	703-872-9310 703-746-8866	U.S. Patent and Trademark Office Alexandria, VA 22313

Kristin L. Johnson
FROM

7326
REFERENCE NO

10
PAGES (WITH COVER)

V0028/258606
CLIENT/MATTER NO.

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COMMENTS

The U.S. Patent and Trademark Office is asked to acknowledge receipt of the following:

1. Transmittal Form PTO/SB/21
2. Amendment and Response to Office Action
3. Copy of Office Action dated 10/04/2002

For:

First Named Inventor: M.E.T. van Esbroeck
USSN: 09/865,180 Filing Date: May 24, 2001
Title: Adding an Additive to a Meat Product

TO BE COMPLETED BY KS OPERATIONS CENTER

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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

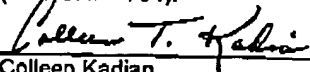
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/865,180	
	Filing Date	May 24, 2001	
	First Named Inventor	M.E.T. van Esbroeck et al.	
	Group Art Unit	1761	
	Examiner Name	S. Weinstein	
Total Number of Pages in This Submission	10	Attorney Docket Number	V0028/258606

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <p style="text-align: center;">Copy of 10/04/2002 Office Action</p>
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Kristin L. Johnson, Reg. No. 44,807 Kilpatrick Stockton LLP	
Signature		
Date	May 9, 2003	

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment and Response to Office Action and all documents referred to as enclosed are being facsimile transmitted to the U.S. Patent and Trademark Office on May 9, 2003 fax no. 703-872-9310 at TC1700 (ART UNIT 1761).


 Colleen Kadian



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,180	05/24/2001	Maurice Eduardus Theodorus van Esbroeck	V0028/258606	4606
23370	7590	10/04/2002		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309				

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 10/04/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED FOR

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2546261

Office Action Summary

Application No.

091865180

Applicant(s)

THEODORUS

Examiner

S. WEINSTEIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-47 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-47 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I: claims 1-29, drawn to a method of treating meat classified in class 426, subclass 641

Group II: claims 30-42, drawn to an apparatus for treating meat, classified in class 99.

Group III: claims 43 and 44, drawn to a packaged meat product, classified in class 426, subclass 129

Group IV: claims 45-47, drawn to a packaging material, classified in class 426, subclass 132.

The inventions are distinct each from the other because the method as claimed in Group I does not require the specific apparatus as claimed in Group II. For example, the method does not require the specific conveyor device having meat holders displaceable along a track wherein the holders securely hold the meat products. As recited in Group I, the meat could be positioned on the surface of a conveyor with no holder system or partition walls or a friction surface. Group III, the packaged meat product is distinct from the other groups since it can be made without the method or apparatus recited in Groups I and II. The packaged product of Group III is distinct from the film of Group IV because the film need not be used as a package. The additive could be smeared onto the product. The film could also be used with foods other than meats.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art requiring separate searches, restriction for examination purposes as indicated is proper.

If either Group I or Group II are selected, the following election of species is required.

This application contains claims directed to the following patent ably distinct species of the claimed invention:

Species I, wherein the additive treatment comprises an additive emitting jet

Species II, wherein the additive treatment comprises a plastic film

Species III, wherein the additive treatment comprises electrostatic additive treatment

Species IV, wherein the additive treatment comprises needle injection means.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

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all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication from the examiner should be directed to Steve Weinstein whose telephone number is 703-308-0650. The examiner can generally be reached on generally Monday to Friday 7:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.

Weinstein/mv/dh
October 3, 2002

October 3, 2002

Steve Weinstein
STEVE WEINSTEIN
PRIMARY EXAMINER 1761
10/3/02